HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20808 of 2005

Dated 22nd September, 2005

Between:

M.A.Raheem .. Petitioner

And

The Central Power Distribution Company
Of Andhra Pradesh Ltd., rep. by its
Managing Director, Hyderabad and two others
.. Respondents

HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.20808 of 2005

ORAL ORDER:

This writ petition is filed challenging the provisional assessment notice (pilferage) dated 17.7.2005 issued by the 3rd respondent.

The learned counsel for the petitioner has contended that without there being any notice, the impugned notice was issued demanding the petitioner to pay 50% of provisional estimation charges which is contrary to Section 126 of the Electricity Act, 2003. Therefore, he prays to set aside the same. For that proposing he has relied upon the common judgment rendered by the Division Bench of this Court in W.A.Nos.452 and 477 of 2004, dated 11.3.2004 between ***M/s.Mallikarjuna Polishing Industries Vs. Chief Managing Director, Transmission Corporation of A.P. Ltd.***

The learned counsel for the respondents has contended that the petitioner can as well agitate the same before the competent authority by making a representation.

For certain irregularities committed by the petitioner with regard to the pilferage of energy, the 3rd respondent issued the impugned proceedings provisionally estimating the value of the energy pilferaged at Rs.72,281/- for obtaining restoration of power supply and the petitioner was directed to pay 50% of the amount. The same is squarely covered by the judgment (cited supra) wherein it was held to the following effect:

> *"Consequently, we allow the appeals, set aside the impugned order passed by the learned single Judge and allow the writ petitions with a direction that electricity supply to the premises of the appellants shall be restored forthwith and the concerned authority will proceed to pass final order in the facts and circumstances of the case after affording opportunity of being heard to the appellants. Obviously, any amount paid by the appellants pursuant to the provisional notice will be liable to be adjusted against the amount to be finally assessed by the authority concerned."*

In this case also, a direction for payment of 50% amount is not sustainable.

Hence, the writ petition is disposed of directing the petitioner to file objections before the assessing authority, thereafter, the assessing authority shall pass appropriate final orders after giving a reasonably

opportunity to the petitioner in accordance with law particularly with reference to Section 126 of the Electricity Act, 2003. It is made clear that till the final assessment is made, the petitioner need not pay 50% of the amount. No costs.

22.09.2005

bcj